

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :
v. :
JAMES TURNER :

JAMES TURNER'S SENTENCING MEMORANDUM

Introduction

I. The Facts and Procedural History

On November 23, 2021, the defendant pleaded guilty to Counts One, and Two of the information, thereby waiving prosecution by indictment, charging him with, inter alia, theft from an organization receiving federal funds, aiding and abetting same as well as wire fraud. These represent Counts One and Two.

The victim, Mr. Turner's employer, SEPTA is now aware of this scheme with an assortment of defendants and co-conspirators, all of which have been laid out to the Court in various documents. James Turner is, according to this writer, a defendant in the smaller segment of the scheme. Nonetheless, the amount of money does not diminish the seriousness of the offense.

The defendant previously acknowledged his waiver of rights, as set forth in his plea agreement and on the record.

James Turner acknowledges the sentencing guidelines calculations, all of which has resulted in a total offense level of 11. Since the applicable guideline range is in zone B of the sentencing table, James Turner respectfully and humbly requests this Court to impose probation with any conditions or combination of conditions which would not require actual physical confinement for a term of custodial imprisonment

As this Court is aware, these charges arise from a significant scheme originating locally in Philadelphia with a shopkeeper and hardware distributor purportedly providing the needed materials for SEPTA construction sites. James Turner was swept into this unlawful activity by his own conduct and now by his own admission not realizing the severity of his conduct nor the enormous impropriety and criminal activity which erupted and now befalls him. Had he only known the importance of propriety earlier in his life and now later in his life this situation could have been avoided because no matter what nefarious conduct he undertook, one thing is certain about James Turner. He worked extremely hard for SEPTA and any person that is encountered who knows James Turner and his relationship with SEPTA as a construction manager would say that he was a diligent, hardworking supervisor and manager

who took his job seriously and performed exceptionally well. His production statistics for SEPTA were exceptional.

James Turner admitted to his conduct in the scheme. Although the prosecuting attorney has made it clear that he was not pleased that the admissions came later than he wanted them to surface. But, nonetheless James Turner has accepted responsibility for his actions and cooperated with the authorities but falling short of deserving a 5K1.1 Motion by the government.

The general background of the activities of the criminal acts are set forth in detail in the presentence investigation report. *We have not objected to any of the paragraphs set forth by the Pre-Sentence Investigator. There is no suggestion of any violence, extortion, or any other despicable conduct on the part of James Turner.*

II. JAMES TURNER'S PERSONAL BACKGROUND AND HISTORY

James Turner's personal and family data is set forth in specific detail throughout the Pre-Sentence report from paragraphs 68 through 90. We could not have presented Mr. Turner with any greater detail than what is set forth therein. Of significant mention is the fact that James Turner turned his life around at an early age despite battling addiction as his very existence was previously decaying both physically as a result of

drug usage and mentally (as he needed enlightenment to educate himself as a useful, productive citizen).

Notwithstanding these charges, James Turner has continued to educate himself, obtain gainful employment and to manage his personal and financial affairs in an excellent fashion. He takes pride in managing his children's' lives as well. They are aware of this matter, and they are all petrified of the outcome. Mr. Turner has decided that it is all too much for them to be personally involved and that for their own emotional good, he has shielded them from the great weight of the case (especially in light of their mother's death). He has been drug tested by pre-trial services and never violated his conditions of release with either a drug filled urine or bad conduct of any sort. In other words, James Turner followed the rules and conditions set forth by the Court and proved his ability to act, think and become a man who retains the honor of being a viable citizen. The defendant will admit that he is a changed man, who acted in the worst way possible, creating this very serious case against him. He remains contrite, accepting the fate that will be befall him and asking for mercy from the Court.

James Turner is currently working for various Construction companies, and works every day, 40 hours a week when work is available. He decided to take on as much work as possible, even doing side jobs in order to pay the rent, help the children and assist with tuition.

Prior to becoming this productive man, James Turner needed to come to terms

with his own life and relationships, namely drug addiction, (details set forth in the PSI). That period of drug dependence was the worst for him, triggered his own dejected view of himself but through abstinence and counselling he transformed an otherwise worthless individual into a decent hard-working mature man. James Turner credits so many people in his life, particularly pre-trial services and the individuals there, who not only listen and guide him, but counsel him on making the right moves in his life and are actually kind and thoughtful, seeing beyond the criminal acts. James Turner was an exemplary conforming individual, trusted by the pre-trial officers. James Turner, as an adult, has been molded by the fear of relapse and the fear of losing his family. He has overcome his fears and problems and has clearly demonstrated that he is able to be supervised without a shred of recidivism. Hence, our humble request for a non-custodial sentence.

James Turner entered his guilty plea because he was guilty and he wanted to begin putting this incident behind him as soon as possible. Mr. Turner's behavior during the course of this case demonstrates that he is truly sorry for his involvement and that he is willing to pay his debt to society and move on. Plainly, James Turner is not an individual who needs to be incarcerated for any period in order to protect the public. The shame of this case is that the public could have been served so well by his work ethic at Septa. But alas, this bad decision and conduct ended all that unfortunately for everyone.

Conclusion

For all these reasons it is respectfully requested that the court impose a period of supervised release rather than a period of incarceration. Respectfully, given Turner's offense conduct, his regret, his personal characteristics, his aberrant behavior, and his acceptance of responsibility in this case (as well as turning his life around), all of this indicates that a sentence outside/below of the advisory guideline range would be sufficient to reflect the seriousness of his offense. A period of supervised release along with treatment programs and community services as a final sentence would be adequate to deter James Turner from future criminal conduct (and thus protect the public and to send a message to others in similar circumstances.). Restitution and Forfeiture must also be included.

If this Honorable Court does take notice of James Turner's sincere efforts at rehabilitating his life, through sobriety, then life-long addiction rehabilitation should be recognized as an appropriate mitigating circumstance. This Court has the power and the authority to consider this aspect, along with all of the other words set forth herein, of the Defendant's life in calculating a reasonable, fair, and just sentence below the advisory guidelines. Again, a period of Supervised Release as a final sentence satisfies all concerns.

In ending, counsel for the defendant has attempted to present every possible aspect of Mr. Turner's life to the Court along with a proper guideline consideration. Although the flow of paragraphs touched upon various mitigation issues, in plain terms, we would not want the Court to overlook a short series of letters all attached collectively as Exhibit "A" where good deeds are also noted.

Respectfully submitted,

/s/ Joseph P. Capone

Joseph P. Capone, Esquire

Attorney for Defendant James Turner

Date: May 19, 2022

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a true and correct copy of the foregoing to be served by e-mail, upon the following:

Louis D. Lappen, Esquire
Deputy United States Attorney

/s/ Joseph P. Capone
Joseph P. Capone, Esquire
Attorney for Defendant James Turner

Dated: May 19, 2022

EXHIBIT A

Characterization Letter

Honorable C. Darnell Jones II
15613 U.S Courthouse
601 Market Street
Philadelphia, PA 19106
Courtroom 15-B

RE: United States v. James Turner
Indictment No. 0313 2:21CR00304-001

Dear Honorable Judge C. Darnell Jones II:

I am very pleased to write character reference letter on behalf of James Turner, my late cousin's husband. I have had the pleasure of knowing James for the majority of my life since he became part of my family 25+ years ago. He has consistently shown me what a trustworthy, reliable man and father should be.

Throughout my life, James has always made the overextending effort to support all those around him, our family especially. He has been the sole financial support of his family to allow his late wife to be a stay-at-home mother to their three youngest children. His children adore and admire him immensely. He has never missed an event, recital or sporting event for his children. He even temporarily fostered his grandchild out of the pure kindness and love in his heart.

James has always been one of the most reliable people I have ever met. If I ever needed something, I knew he would drop everything to be there for me. As a young child, he and his wife often babysat me, taking me to the movies and carnivals. As I grew older, I even began babysitting their children and he has remained such an incredible father and family member through the years. Even when I had a flat tire on the PA Turnpike 73 miles away, James was the one to show up and help me. Not once did he expect anything in return. When we lost our grandmother in September 2019, he was there to support our entire family and help with whatever arrangements needed to be made. I truly am so thankful to have him in my life.

He has overcome the most heartbreaking instance most only hope they do not have to endure. To lose his wife and mother of his three youngest children so abruptly and unexpectedly in June of last year was an absolute tragedy. We were all so broken, James the most of all. However, he understood that he had to remain strong to continue to be a father and to support and love his children as the only parent they have left. The unimaginable pain he has had to endure and push through in order to get through the last 11 months is astonishing. But he has continued to do his absolute best in order to give his children everything they need and more. Following the death of his wife, his son Julian started his first year in college at Delaware College of Art and Design in August 2021. Every weekend since last August, he has drove his son to and from college in

Wilmington, DE so that they can spend time together as a family. He is the most dependable father anyone could ask for.

Although he has made this regrettable mistake, I assure you he is not only undyingly remorseful, but also takes full responsibility for his actions and is willing to do whatever it takes to make this right. This is a one-time event and he has learned a valuable lesson in his disappointing actions. I truly believe in his ability to emerge from this as a better person and rehabilitate from his wrongdoings.

It is my sincere hope that the honorable court takes into consideration this letter of characterization upon sentencing. Despite this current indictment, I still believe James is an upstanding citizen, father, and family member.

Sincerely,

Chelsea Garber

Joseph Capone

From: jimmy turner <juliboy06@gmail.com>
Sent: Sunday, May 8, 2022 9:13 PM
To: Joseph Capone
Subject: Fwd: jimmy letter

----- Forwarded message -----

From: Kelly Dever <kelly92607@yahoo.com>
Date: Sun, May 8, 2022 at 9:04 PM
Subject: jimmy letter
To: juliboy06@gmail.com <juliboy06@gmail.com>

Honorable C. Darnell Jones II,

My name is Kelly Ann Dever and I am writing this letter to you on the behalf of James Turner. I have know Jimmy for over 5 years now. Our daughters became fast friends in the 3rd grade they are now getting ready to graduate 8th grade. As our daughters have became best friends, Jimmy, his beloved wife Angel and I have become close friends also. I always like to know who my daughter is around. Some say I am a helicopter mom, but I just like to make sure my child is in a save environment while is spending time with her friends. I have to say over the years there were many sleepovers, at the Turners home and at my house. This past year I have seen the Turner family world get flipped upside down, with the tragic and sudden loss of Angel, the glue that held them together, loving wife and mother. Jimmy stepped up for his children, became a single father of 3 teenagers. Can you imagen that? The kids and his family comes first. He works long days, takes them to doctor appointments, food shops, cooks, and cleans, and still make time for them. I have know many dads over the years that don't do nearly as much as Jimmy is now doing. I give him so much credit for getting himself and the kids through the hardest time in their lives. Julian is finishing up his first year of college, Jayla just got her drivers permit, and Jordin is getting ready for high school in the fall, and Jimmy is doing it all with them. He is always there for them, or anyone really, he is a very caring person. I consider Jimmy and the kids family, I know if I ever need him, he'll be there. So please, Your Honor, take this letter into consideration, not just his past wrong doings.

Thank you,
Kelly Ann Dever
[10704 Philcrest Rd.](#)
[Phila, PA 19154](#)
215-817-4363

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Sent from Gmail Mobile

Dawn Madden
444 Natale Lane
Warminster PA, 18974

May 7, 2022

Re: Mr. James Turner

To Whom it May Concern,

I am writing on behalf of James Turner. Mr. Turner started a family with my cousin Angelique many years ago. I was very close to Angel her three children and James. Sadly, Angel died in a tragic car accident in June of 2021 leaving James and the children heartbroken and devastated. The loss has been difficult on the entire family however, James has the hardship of raising his three children on his own. He is working hard, managing a household and being a father to Julian, Jayla, and Jordan. He is still grieving yet has shown immense strength in coping with his loss. The children rely on him for everything while he has had a rough road with learning how to do the tasks that Angel has always taken care of in the household. He continues to do his best in parenting and self-care. James has always been the bread winner for his family, a supportive parent, and the foundation for his family. James is the all the children have and does his best to provide, teach, and love for them as they still are in the early stages of comprehending the magnitude of the loss they have experienced. In the time I have known James I can say he is a great father, a hard worker and a person who continues to learn from his experiences and become a better individual so that he may be a role model for those around him.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dawn', with a stylized flourish extending to the right.

Dawn Madden

Date: 5/8/22

Re: Jimmy Turner

To: The Honorable C. Darnell Jones II

I have known Jimmy Turner for 20 years as a wonderful nephew, husband, and father. I am troubled and surprised to hear of this recent case. He has always been a very stand up person. That is why I'm happy to write this letter of reference regarding this matter. I understand the seriousness of this matter, however, hope the court will show some leniency.

Jimmy is a widower and assume all of the responsibility of his three children. He does an outstanding job with their medical, schooling, and has even put his oldest through his first year of college, made sure his daughter get their sacraments complete with the church. He is very family oriented, he keeps his home impeccable. I don't know how he does it with the loss of his wife on June 7, 2021.

It's in my sincere hope that the court takes this letter into consideration at the time of the hearing. I know that Jimmy Turner is a be a honorable individual, and valuable person to my family, community, and a wonderful person.

Sincerely,
Diane Garber
Diane Garber

Joseph Capone

From: jimmy turner <juliboy06@gmail.com>
Sent: Sunday, May 8, 2022 8:46 PM
To: Joseph Capone
Subject: Fwd: Character reference

Jimmy Turner

----- Forwarded message -----

From: Cortney Kelly <ckell827@gmail.com>
Date: Sun, May 8, 2022 at 8:42 PM
Subject: Character reference
To: <juliboy06@gmail.com>

To honorable judge C. Darnell Jones II

I have known Mr. James Turner for over 15 years he was the loving husband of my late cousin Angel Martinez. I recognize Mr. Turner has made his past mistakes and I understand the severity of said situation but I can assure you that Mr. Turner is remorseful and has made drastic changes to better himself. I am proud to write this character reference on his behalf in hopes you can see the man I see.

Mr. Turner is a great man, father and family member to all of us around him. He has helped me personally when my mother, his wife's Aunt, suffered a stroke and we needed remodeling done to make our home more accessible for her needs. He was the first person to lend a helping hand immediately, without him we never would of been able to have my mother comfortable in her home following her release from the hospital.

Mr. Turner also suffered the tremendous loss of his beloved wife, leaving him as the single parent to raise 3 teenagers. As tough as that situation was for him, he has been nothing but selfless in making sure his children are happy and healthy even on the days he struggles to be happy himself. I hope that this letter helps you better understand the man we all love and that you could see it in your heart to give Mr. Turner the chance to prove himself to you and the court as a changed man today.

Thank you,
Cortney Kelly

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Sent from Gmail Mobile